WHO MUST PAY UNEMPLOYMENT TAXES?

Businesses and others who meet the definition of "employer" in the unemployment statute must pay unemployment taxes. Vermont's definition of an employer is the same as is found in the Federal Unemployment Tax Act (FUTA). An employer is:

- One that pays $1,500 in wages in any calendar quarter in the current or preceding year, or employs one or more person for some portion of a day in each of 20 different weeks.

- The state and its political subdivisions. (They have the option of being self-insured.)

- A private household that pays cash remuneration of $1000 or more during a calendar quarter for domestic employment.

- Non-profit (Internal Revenue Code 501 (c) (3)) entity with four or more employees. (They have the option of being self-insured.)

- A farm that pays cash remuneration of $20,000 or more in a calendar quarter in the current or preceding year or who employs 10 or more individuals for some portion of a day in each of 20 different weeks.

WHAT JOBS ARE COVERED BY UNEMPLOYMENT INSURANCE?

Employment covered by unemployment insurance includes all service provided to an employer (as defined above) **except when**:

- Service performed by an individual when the individual is
  - Free from direction and control of the employer, and
  - Outside the usual place of the employer's business or the usual course of the business, and
  - The individual is customarily engaged in an independent trade, occupation or profession.
- Casual labor receiving $50 or less in a quarter.
- Service performed in the employ of his or her daughter, son, spouse, and service performed by a minor in the employ of his or her parents.
- Service performed for the US government.
- Service performed for the government:
  - As an elected official.
  - As a member of a legislative body, judiciary of the state or its subdivisions.
  - As a member of the national guard or air guard.
  - As an employee serving on a temporary basis during a crisis such as a fire, snowstorm, or similar emergency.
  - On an advisory or policy making committee established by law where the duties do not typically require more than 8 hours of work a week.
- Service in the employ of a church, convention or association of churches.
- Service as an ordained or licensed minister of a church.
- Supported work for individuals whose earning capacity is impaired by age, or physical or mental capacity.
- Service as part of government financed work relief or work training program.
- Service covered by the Railroad Unemployment Act.
- Service performed as work-study students.
- Service performed as licensed sales people working for commissions who meet the definition of independent contractor under common law rules.
- Loggers and stone artisans who provided their own tools.
- Full time students in the employ of a camp, provided they intend to return to school at the end of the vacation.
- Direct sellers.

HOW DO EMPLOYERS CALCULATE THEIR UNEMPLOYMENT TAXES?

An employer’s tax (contribution) is calculated by taking the total gross wages paid within the quarter to all subject employees, less wages in excess of the taxable wage base, times the employer’s rate. The tax rate is assigned yearly based upon the employer’s experience. The taxable wage base is the amount of wages paid within a calendar year to an employee that is taxed for unemployment purposes. Any wages paid beyond this amount are still reported to VDOL, but they are considered to be wages paid in excess of the calendar year wage base and are not taxed. For the past 26 years, Vermont’s taxable wage base has been $8,000, but in January 2010 it will increase to $10,000. The taxes are due at the end of the month following the quarter, requiring employers to pay a tax on the first $8,000 (or $10,000 beginning in 2010) paid to employees of the employers.

HOW ARE TAX RATES ASSIGNED TO AN EMPLOYER?

Federal law requires states to base for-profit employer contributions upon experience with unemployment. To accomplish this each state measures the relative experience of employers and then assigns tax rates based upon the measure. There are two primary methods used by states to quantify experience. Thirty-three states use the reserve-ratio system, which subtracts all benefits charged to the employer=s account from all taxes paid by the employer and then divides the result by three or more years of taxable wages. Vermont, along with sixteen other states, uses the benefit ratio system. The benefit ratio system divides total benefits paid to the employer=s workers by its total wages to develop an experience factor. Two states divide the sum of wages used by workers to qualify for benefits by the employer=s total wages to develop an experience factor. Alaska simply uses the average quarterly change in the employer=s total wages as the experience factor.

None of the experience rating systems directly relate cost to tax rates. The goal is to array employers so that rates are distributed in a relative relationship to cost. There are a number of reasons why cost does not have a direct relationship to a tax rate. To meet its macroeconomic goal of economic stabilization the program needs to be forward funded. It needs to accumulate money in advance of recessions. Consequently, the experience factor acts as a predictor of future cost to the system. Unemployment insurance also incorporates the principle of shared risk. It creates an incentive to stabilize employment by increasing cost if there is a layoff but does moderate the increase when employers have relatively large declines in workers. In addition, most states including Vermont have decided for policy reasons to spread the cost of some benefits among all employers.

In Vermont, each spring all experience rated employers are arrayed according to their experience factor from the lowest to the highest. The experience factor is the ratio of three years of benefits to three years of taxable wages. All employers with a zero experience factor are assigned the lowest contribution rate, currently 1.1%. The remaining employers are divided into twenty groups and assigned one of 20 rates from the contribution schedule found in the statute. Each group represents 5 percent of taxable wages. Employers with the same experience factor are assigned to the same group as a matter of equity. In June of each year, employers are notified of the rate that will be in effect during the upcoming rate year (July 1st through June 30th).

TAX TABLE – Title 21, Chapter 17, §1326

Rate Class	One	Two	Three	Four	Five
	2.50 +	2.00-2.49	1.50-1.99	1.00-1.49	Under 1.00
0	0.4%	0.6%	0.8%	1.1%	1.3%
1	0.5%	0.7%	0.9%	1.2%	1.5%
2	0.6%	0.8%	1.1%	1.4%	1.8%
3	0.7%	1.0%	1.4%	1.7%	2.1%
4	0.8%	1.2%	1.7%	2.0%	2.4%
5	0.9%	1.4%	2.0%	2.3%	2.7%
6	1.1%	1.7%	2.3%	2.6%	3.0%
7	1.4%	2.0%	2.6%	2.9%	3.3%
8	1.7%	2.3%	2.9%	3.2%	3.6%
9	2.0%	2.6%	3.2%	3.5%	4.0%
10	2.3%	2.9%	3.5%	3.8%	4.4%
11	2.6%	3.2%	3.8%	4.1%	4.8%
12	2.9%	3.5%	4.1%	4.5%	5.2%
13	3.2%	3.8%	4.4%	4.9%	5.6%
14	3.5%	4.1%	4.7%	5.3%	6.0%
15	3.8%	4.4%	5.0%	5.7%	6.4%
16	4.1%	4.7%	5.3%	6.1%	6.8%
17	4.4%	5.0%	5.6%	6.5%	7.2%
18	4.7%	5.3%	5.9%	6.9%	7.6%
19	5.0%	5.6%	6.2%	7.3%	8.0%
20	5.4%	5.9%	6.5%	7.7%	8.4%
Ave Tax Rate	2.1%	2.6%	3.1%	3.6%	4.1%

DO ALL EMPLOYERS PAY TAXES QUARTERLY?

Non-profit 501(c)(3) organizations and other entities, such as instrumentalities of the State, certain hospitals or institutions of higher education, and state political subdivisions may request to be reimbursable. The State of Vermont is required to be reimbursable. The Reimbursable Option requires the employer to report wages quarterly; however, there is no quarterly tax due. A reimbursable employer pays the amount of unemployment benefits (attributable to service with the employer) when billed following the end of the quarter the benefits were paid in.

HOW DO LAYOFFS AFFECT EMPLOYERS?

The following tables show examples of how layoffs affect different employers. Table I lists three employers who have had no benefits charged to their experience rating account during the previous three years. The table assumes all workers earn $38,300 in wages during the year.

Table I

Employer	# of Workers	Total Wages	Taxable Wages	Tax Rate	Total Annual Tax
A	5	$191,585	$50,000	1.1%	$550
B	50	$1,915,850	$500,000	1.1%	$5,500
C	500	$19,158,400	$5,000,000	1.1%	$55,000

If the same three employers experience a 20% reduction in workers and those workers qualify for the maximum weekly benefit ($425), the employers' taxes will change as depicted in Table II the following year. Federal law requires states to look at a minimum of three years of benefits so the layoffs will influence tax rates for three years. The table assumes that all unemployed workers received the maximum allowable 26 weeks of benefits.

Table II – 20 Percent Reduction in Workers

Employer	# of Workers Remaining	Total Wages	Taxable Wages	Tax Rate	Total Annual Tax	Benefits Paid
A	4	$153,326	$40,000	6.5%	$2,600	$11,050
B	40	$1,532,680	$400,000	6.5%	$26,000	$110,050
C	400	$15,326,800	$4,000,000	6.5%	$260,000	$110,500

If these same employers each experience one layoff, the effect changes as illustrated in Table III. The larger employer's tax rates do not increase as much as the smaller employer, but large employers end up paying much more in taxes than the smaller employer.

Table III – One layoff

Employer	# of Workers Remaining	Total Wages	Taxable Wages	Tax Rate	Total Annual Tax	Benefits Paid
A	4	$153,286	$40,000	6.9%	$2,760	$11,050
B	49	$2,260,703	$490,000	3.2%	$15,680	$11,050
C	499	$19,120,183	$4,990,000	1.4%	$69,860	$11,050

These examples show that employers with the same relative reduction in workers are treated the same. They also show how pooling risk protects employers with relatively large layoffs. A portion of the cost of benefits paid to the employees in these relatively large reductions is absorbed by the fund as a whole. Finally, larger employers with small relative reductions in employees pay more than their workers receive in benefits. As a self-contained system, larger employers with a small layoff cover much of the cost of the pooled risk and the cost of benefits not charged to any account.

RANKING OF AVERAGE EFFECTIVE TAX RATES
TAXES AS A PERCENTAGE OF TOTAL WAGES

State		Rank	State		Rank
AK	1.33%	1	ME	0.58%	28
RI	1.19%	2	ID	0.56%	29
MI	1.09%	3	NY	0.54%	30
OR	1.04%	4	SC	0.50%	31
PR	1.03%	5	NM	0.49%	32
WA	0.99%	6	DE	0.47%	33
MA	0.98%	7	KS	0.47%	34
ND	0.98%	8	CO	0.44%	35
PA	0.98%	9	TN	0.44%	36
NJ	0.88%	10	NE	0.39%	37
IA	0.85%	11	MD	0.37%	38
IL	0.79%	12	AL	0.36%	39
NC	0.79%	13	GA	0.36%	40
AR	0.78%	14	UT	0.36%	41
WI	0.75%	15	HI	0.34%	42
NV	0.75%	16	MS	0.34%	43
WV	0.75%	17	DC	0.32%	44
MN	0.73%	18	LA	0.31%	45
VT	0.72%	19	OK	0.31%	46
KY	0.71%	20	AZ	0.30%	47
CA	0.69%	21	FL	0.30%	48
CT	0.69%	22	TX	0.29%	49
MO	0.69%	23	SD	0.26%	50
MT	0.66%	24	NH	0.25%	51
OH	0.64%	25	VA	0.24%	52
WY	0.64%	26	VI	0.09%	53
IN	0.58%	27	Ave	0.62%	